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09/528,357	03/18/2000	Kui-Chiu Kwok	8010-61	4073

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06/03/2004

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EXAMINER

DEL SOLE, JOSEPH S

ART UNIT

PAPER NUMBER

1722

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/528,357

Applicant(s)

KWOK ET AL

Examiner

Joseph S. Del Sole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 48-50, 67-71, 73, 74, 77, 78 and 80-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 48-50, 67-71, 73 and 74 is/are allowed.
- 6) ☒ Claim(s) 77, 78 and 80 is/are rejected.
- 7) ☒ Claim(s) 81 and 82 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/18/00, 4/4/00, 5/17/00, 6/18/01, 12/1/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on 4/27/04 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 5,902,940 has been reviewed and is accepted. The terminal disclaimer has been recorded.
2. The terminal disclaimer filed on 4/27/04 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 6,074,597 has been reviewed and is accepted. The terminal disclaimer has been recorded.
3. The assignment document filed on 4/27/04 is acceptable as the documentary evidence required by 37 CFR 3.73. If the assignment document is not already recorded with the United States Patent and Trademark Office, it is suggested that the assignment document be submitted for recording among the Office assignment records. See 37 CFR 3.11 and MPEP § 302.

Specification

4. The disclosure is objected to because of the following informalities: **a)** the newly added limitation to claims 67 and 81 "the plurality of first fluid orifices and the... second fluid... arranged in a common series..." is supported by the original disclosure, as shown in Figure 5 and discussed at page 12, lines 1- 6 (Fig. 5, which shows an alternating series of the .. orifices"), however the terminology between the claims and

the specification differs; therefore the specification, in reference to Figure 5, should be amended to include the terminology "common series".

Appropriate correction is required.

Claim Objections

5. Claims 77 and 81 are objected to because of the following informalities: **a)** "substantially opposites side thereof" at line 12 of claim 77 should be changed to --substantially opposite side thereof--; and **b)** "and the second fluids arranged" at line 7 of claim 81 should be changed to --and the second fluid orifices arranged--. Appropriate correction is required.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claim 77 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 30 and 33 of U.S. Patent No. 6,680,021. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 3 (in combination with parent claim 30) of

US6,680,021 teaches a melt blowing apparatus (claim 30, line 1) having a first fluid orifice in a body member (claim 30, line 2); a plurality of second fluid orifices formed by corresponding conduit portions in the body member (claim 30, lines 3-12), the second fluid orifices and corresponding conduit portions disposed symmetrically on not more than two substantially opposite sides of the first fluid orifice (claim 30, lines 4-6), at least one second fluid orifice on one side of the first fluid orifice and at least one second fluid orifice on the other substantially opposite side thereof (claim 30, lines 6-8), the first and second fluid orifices each have a corresponding fluid conduit disposed in the body member (claim 30, lines 9-12), and the first fluid orifice protrudes relative to the second fluid orifices on the substantially opposite side thereof (claim 33, lines 1-2). Claims 30 and 33 of US6,680,021 include limitations that are not included in pending claim 77 but do not teach away from the invention of claim 77.

8. Claims 77 and 78 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 24, 27 and 28 of U.S. Patent No. 6,680,021. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 28 (in combination with parent claims 24 and 27) of US6,680,021 teaches a melt blowing apparatus (claim 24, line 1) having a first fluid orifice in a body member (claim 24, line 2); a plurality of second fluid orifices formed by corresponding conduit portions in the body member (claim 24, lines 3-9), the second fluid orifices and corresponding conduit portions disposed symmetrically on not more than two substantially opposite sides of the first fluid orifice (claim 24, lines 4-5), at least one second fluid orifice on one side of the first fluid orifice

and at least one second fluid orifice on the other substantially opposite side thereof (claim 24, lines 4-5), the first and second fluid orifices each have a corresponding fluid conduit disposed in the body member (claim 24, lines 6-7), the first fluid orifice protrudes relative to the second fluid orifices on the substantially opposite side thereof (claim 28, lines 1-2); portions of the body member proximate the first fluid orifice devoid of fluid orifices, the portions of the body member devoid of fluid orifices disposed symmetrically on substantially opposite sides of the first fluid orifice between the second fluid orifices (claim 24, lines 10-14). Claims 24 and 27-28 of US6,680,021 include the invention wherein there are only two second fluid orifices disposed on opposite sides of the first fluid orifice and the claims include limitations that are not included in pending claims 77 and 78 but do not teach away from the invention of claims 77 and 78.

9. Claim 80 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 30 and 33 of U.S. Patent No. 6,680,021 in view of any of Schwarz (2,031,387), Powell (3,176,345) and Powell (3,192,562).

Claims 30 and 33 of 6,680,021 teach the invention of claim 77 as discussed above.

Claims 30 and 33 of 6,680,021 fail to teach the body member comprising at least two plates.

Schwarz, Powell ('387) and Powell ('345) teach a spinnerette body member formed of multiple plates for the purpose of increasing easy of fabrication and reduce

cost of fabrication (Schwarz, page 2, col 2, lines 30-40, Powell '562, col 1, lines 35-30 and Powell '345, col 1, lines 20-30).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of claims 30 and 33 of US6,680,021 with a body member formed of multiple plates because it enables easy and inexpensive fabrication.

10. Claim 80 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 24, 27 and 28 of U.S. Patent No. 6,680,021 in view of any of Schwarz (2,031,387), Powell (3,176,345) and Powell (3,192,562).

Claims 24, 27 and 28 of 6,680,021 teach the invention of claims 77 and 78 as discussed above.

Claims 24, 27 and 28 of 6,680,021 fail to teach the body member comprising at least two plates.

Schwarz, Powell ('387) and Powell ('345) teach a spinnerette body member formed of multiple plates for the purpose of increasing easy of fabrication and reduce cost of fabrication (Schwarz, page 2, col 2, lines 30-40, Powell '562, col 1, lines 35-30 and Powell '345, col 1, lines 20-30).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of claims 24, 27 and 28 of US6,680,021 with a body member formed of multiple plates because it enables easy and inexpensive fabrication.

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Allowable Subject Matter

11. Claims 48-50, 67-71 and 73-74 are allowed.
12. Claims 81 and 82 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
13. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or suggest the meltblowing system of claim 48 or 73 including the fluid conduits disposed non-convergently in the body member; the meltblowing system of claim 67 or 81 including the plurality of first fluid orifices and the associated second fluid orifices arranged in a common series of orifices (the Examiner interprets "common series" as that which is shown in Figure 5).

Response to Arguments

14. Applicant's arguments, see the response of 4/27/04, with respect to the rejection(s) of claim(s) 48-50 and 67-83 under 35USC102 have been fully considered and are persuasive. Therefore, the rejections have been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the double patenting rejection as discussed above. The 35USC101 and 35USC112, 1st paragraph rejections have also be removed upon reconsideration. Furthermore, the previous double patenting rejections have been overcome by the acceptable terminal disclaimers of 4/27/04.

Correspondence

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Joseph S. Del Sole whose telephone number is (571)

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272-1130. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wanda Walker, can be reached at (571) 272-1151. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for both non-after finals and for after finals.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from the either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll-free).

Joseph S. Del Sole

J.S.D.

May 28, 2004